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DOC #:
DATE FILED: 10/4/2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SERGIO TORRES, individually and on behalf of
others similarly situated,

Plaintiff,

-against-

GOLDEN HOME FURNITURE INC. d/b/a Golden
Home Furniture; 7 STAR HOME FURNITURE INC.
d/b/a 7 Star Furniture; MOHAMMAD ALDAOU;
FRANK DOE; and DAVID ALDAOU a/k/a Akman,

Defendants.

1:20-cv-04789-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff commenced this action on June 23, 2020, by filing the Complaint [ECF No. 1]. Copies of the summons and Complaint were served on Defendants Golden Home Furniture Inc. and 7 Star Home Furniture Inc. on July 14, 2020, with proof of service filed on October 1, 2020 [ECF Nos. 17–18], and Defendants Mohammad Aldaou, Frank Doe, and David Aldaou on February 23, 2021, with proof of service filed on March 3, 2021 [ECF Nos. 28–30].

The Clerk of Court issued Certificates of Default as to Defendants Golden Home Furniture Inc. and 7 Star Home Furniture Inc. on October 15, 2020 [ECF Nos. 23–24], and Defendants Mohammad Aldaou, Frank Doe, and David Aldaou on March 22, 2021 [ECF Nos. 37–39]. Plaintiff filed a Motion for Default Judgment on June 7, 2021. [ECF No. 41].

On August 10, 2021, the Court held a telephonic hearing on Plaintiff’s Motion for Default Judgment. Counsel Michael Antonio Faillace appeared on behalf of Plaintiff. Defendants did not appear. [ECF No. 46].


On August 10, 2021, the Court denied Plaintiff’s Motion for Default Judgment without prejudice. [ECF No. 46]. The Court held that Plaintiff had “failed to allege adequately that the

individual Defendants were his employers under the Fair Labor Standards Act and the New York Labor Law.” [ECF No. 46].

Plaintiff thereafter has failed to take any action or further prosecute this case. IT IS HEREBY ORDERED that Plaintiff shall file on or before November 4, 2021 either a renewed motion that addresses the deficiencies the Court identified in its Order denying without prejudice, Plaintiff’s Motion for Default Judgment filed on June 7, 2021 or a letter explaining why Plaintiff has failed to do so. Failure to comply with this order by November 4, 2021 may result in dismissal of this action for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001).

SO ORDERED.

Date: October 4, 2021
New York, NY



MARY KAY VYSKOCIL
United States District Judge